

Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

Telephone Number:

Refer Reply To:

CC:PSI:B02

PLR-153182-09

Date:

March 3, 2010

Legend

A =

X =

Y =

Z =

State =

D1 =

D2 =

Dear

This responds to a letter dated November 4, 2009, and subsequent correspondence submitted on behalf of A by its authorized representative, requesting an extension of time under § 301.9100-3 of the Procedure and Administration Regulations for A to treat X, Y, and Z as qualified subchapter S subsidiaries (QSubs).

The information submitted states that A was formed in State on D1. A filed a Form 2553, Election by a Small Business Corporation, effective D1. In addition, A represents that it intended to make a QSub election for X, Y, and Z, effective D2.

However, Forms 8869, Qualified Subchapter S Subsidiary Election, were not timely filed for X, Y and Z.

Section 1361(b)(3)(A) provides that a QSub shall not be treated as a separate corporation, and all assets, liabilities, and items of income, deduction, and credit of a QSub shall be treated as assets, liabilities, and such items (as the case may be) of the S corporation.

Section 1361(b)(3)(B) defines a QSub as a domestic corporation which is not an ineligible corporation, if 100 percent of the stock of the corporation is held by an S corporation, and the S corporation elects to treat the corporation as a QSub.

Section 1.1361-3(a) of the Income Tax Regulations provides the time and manner of making a QSub election. A taxpayer makes a QSub election with respect to a subsidiary by filing a Form 8869 with the appropriate service center. Section 1.1361-3(a)(4) provides that a QSub election cannot be effective more than two months and 15 days prior to the date of filing.

Section 301.9100-1(c) gives the Commissioner discretion to grant reasonable extensions of time to make regulatory elections under the rules of §§ 301.9100-2 and 301.9100-3. Under § 301.9100-1(b), a regulatory election includes an election whose due date is prescribed by a regulation published with the Federal Register.

Section 301.9100-3 sets forth the standards that the Commissioner uses to determine whether to grant a discretionary extension of time. These standards indicate that the Commissioner should grant relief when the taxpayer provides evidence proving to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and that granting relief will not prejudice the interests of the Government.

Based solely on the facts submitted and the representations made, we conclude that A has satisfied the requirements of sections 301.9100-1 and 301.9100-3. As a result, A is granted an extension of time of 60 days from the date of this letter to elect to treat X, Y, and Z as QSubs effective D2. Accordingly, provided that A makes a QSub election for X, Y and Z by filing completed Forms 8869 effective D2 with the appropriate service center within 60 days from the date of this letter, then such elections will be treated as timely made for D2. A copy of this letter should be attached to the Forms 8869.

Except as specifically set forth above, no opinion is expressed concerning the federal tax consequences of the facts described above under any other provision of the Code, including whether X, Y and Z are eligible QSubs.

This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

Pursuant to a power of attorney on file with this office, a copy of this letter is being sent to X's authorized representative.

Sincerely,

Curt G. Wilson
Associate Chief Counsel
Office of the Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosures (2)
Copy of this letter
Copy for § 6110 purposes